

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM

ARIZONA LONG-TERM CARE SYSTEM

PREAMBLE

1. Sections Affected

Rulemaking Action

R9-28-101	Amend
R9-28-104	Repeal
R9-28-401	Repeal
R9-28-401	New Section
R9-28-401.01	New Section
R9-28-407	Amend
R9-28-408	Amend
R9-28-410	Amend
R9-28-412	Amend
R9-28-415	Amend
R9-28-418	Amend

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 36-2903.01

Implementing statute: A.R.S. § 36-2903.01

3. The effective date of the rules:

The rules are effective 60 days after filing with the Secretary of State.

4. A list of all previous notices appearing in the *Register* addressing the final rules:

Notice of Rulemaking Docket Opening: 13 A.A.R. 2853, August 17, 2007

Notice of Proposed Rulemaking: 13 A.A.R. 4483, December 21, 2007

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Mariaelena Ugarte
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6. An explanation of the rule, including the agency's reasons for initiating the rule:

Laws 2007, Ch 263, § 7 A.R.S. § 36-2901 has required the Administration to update the eligibility income limit to the Federal Poverty Level (FPL) of 150 percent for a pregnant woman. The Administration is also proposing amendments to the rules to revise, reorganize, and clarify the enrollment requirements as specified in the Section 1115 waiver with CMS.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

No study was reviewed during this rulemaking and the Agency does not anticipate reviewing any studies.

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

It is anticipated that the contractors, private sector, members, providers, small businesses, political subdivisions, the Department, and the Administration will be minimally impacted by the changes to the rule language. The areas of rule that describe the SOBRA pregnant woman's federal poverty level will be changed from 133% to 150%. This increase in FPL will allow more uninsured pregnant women to meet the income requirements and qualify for medical assistance.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

No substantial changes have been made between the proposed rules and the final rules. The Administration made the rules more clear, concise, and understandable by making grammatical, verb tense, punctuation, and structural changes throughout the rules.

11. A summary of the comments made regarding the rule and the agency response to them:

The Administration did not receive any comments regarding the rules.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

13. Incorporations by reference and their location in the rules:

Not applicable

14. Was this rule previously adopted as an emergency rule?

No

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM

ARIZONA LONG-TERM CARE SYSTEM

ARTICLE 1. DEFINITIONS

Section

R9-28-101. General Definitions

R9-28-104. ~~Eligibility and Enrollment Related Definitions~~ Repealed

ARTICLE 4. ELIGIBILITY AND ENROLLMENT

Section

R9-28-401. ~~General~~ Eligibility and Enrollment-Related Definitions

R9-28-401.01. General

R9-28-407. Resource Criteria for Eligibility

R9-28-408. Income Criteria for Eligibility

R9-28-410. Community Spouse

R9-28-412. General Enrollment

R9-28-415. Enrollment with a Tribal Program Contractor

R9-28-418. Disenrollment

TITLE 9. HEALTH SERVICES

CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM

ARIZONA LONG-TERM CARE SYSTEM

ARTICLE 1. DEFINITIONS

R9-28-101. General Definitions

A. Location of definitions. Definitions applicable to Chapter 28 are found in the following:

Definition Section or Citation

"210" 42 CFR 435.211.

"217" 42 CFR 435.217.

"236" 42 CFR 435.236.

"Acute" R9-28-301

"ADHS" ~~R9-22-402~~ R9-22-101

"ADL" R9-28-101

"Administration" A.R.S. § 36-2931

"Advance notice" R9-28-411

"Aged" R9-28-402

"Aggregate" R9-22-701

"Aggression" R9-28-301

"AHCCCS" R9-22-101

"AHCCCS registered provider" R9-22-101

~~"Algorithm" R9-28-104~~

"ALTCS" R9-28-101

"ALTCS acute care services" ~~R9-28-104~~ R9-28-401

"Alternative HCBS setting" R9-28-101

"Ambulance" A.R.S. § 36-2201

"Ambulation" R9-28-301

"Applicant" R9-22-101

"Assessor" R9-28-301

"Associating time with an event and an action" R9-28-301

"Auto-assignment algorithm" or "Algorithm" R9-22-1701

"Bathing" R9-28-301

"Bathing or showering" R9-28-301

"Bed hold" R9-28-102

"Behavior intervention" R9-28-102

"Behavior management services" R9-22-1201

"Behavioral health evaluation" R9-22-1201

"Behavioral health medical practitioner" R9-22-1201

"Behavioral health professional" R9-20-101

"Behavioral health service" R9-20-101

"Behavioral health technician" R9-20-101

"Billed charges" R9-22-701

"Blind" 42 U.S.C. 1382c(a)(2)

"Capped fee-for-service" R9-22-101

"Caregiver training" R9-28-301

"Case management plan" R9-28-101

"Case management" R9-28-1101

"Case manager" R9-28-101

"Case record" R9-22-101

"Categorically-eligible" R9-22-101

"Certification" R9-28-501

"Certified psychiatric nurse practitioner" R9-22-1201

"CFR" R9-28-101

"Child" R9-22-1503

"Chronic" R9-28-301

“Clarity of communication” R9-28-301

"Clean claim" A.R.S. § 36-2904

“Climbing stairs or a ramp” R9-28-301

"Clinical supervision" ~~R9-22-102~~ R9-22-201

"CMS" R9-22-101

“Community mobility” R9-28-301

"Community spouse" ~~R9-28-104~~ R9-28-401

“Consecutive days” R9-28-901

“Continence” R9-28-301

"Contract" R9-22-101

"Contract year" ~~R9-28-101~~ R9-22-101

"Contractor" A.R.S. § 36-2901

“Cost avoid” R9-22-1201

"County of fiscal responsibility" R9-28-701

"Covered services" R9-28-101

"CPT" R9-22-701

“Crawling and standing” R9-28-301

"CSRD" ~~R9-28-104~~ R9-28-401

“Current” R9-28-301

"Day" R9-22-101

"De novo hearing" 42 CFR 431.201

"Department" A.R.S. § 36-2901

"Developmental disability" or “DD” A.R.S. § 36-551

“Developmental milestone” R9-28-301

"Diagnostic services" ~~R9-22-102~~ R9-22-101

"Director" R9-22-101

“Disabled” R9-28-402

"Disenrollment" ~~R9-22-117~~ R9-22-1701

“Disruptive behavior” R9-28-301

"DME" ~~R9-22-102~~ R9-22-101

“Dressing” R9-28-301

“Eating” R9-28-301

“Eating or drinking” R9-28-301

“Elderly” R9-28-301

“Emergency medical services for the non-FES member” ~~R9-22-102~~ R9-22-201

“Emotional and cognitive functioning” R9-28-301

“Employed” R9-28-1320

"Encounter" R9-22-701

"Enrollment" ~~R9-22-117~~ R9-22-1701

"EPD" R9-28-301

“E.P.S.D.T. services” ~~R9-22-101~~ 42 CFR 440.40(b)

"Estate" A.R.S. § 14-1201

“Experimental services” R9-22-101

“Expressive verbal communication” R9-28-301

"Facility" R9-22-101

"Factor" 42 CFR 447.10

"Fair consideration" ~~R9-28-104~~ R9-28-401

"FBR" R9-22-101

“Federal financial participation” or “FFP” 42 CFR 400.203

"Fee-For-Service" or "FFS" ~~R9-28-102~~ R9-22-101

“File” R9-28-901

“First continuous period of institutionalization” R9-28-401

“Food preparation” R9-28-301

“Frequency” R9-28-301

“Functional assessment” R9-28-301

"Grievance" R9-34-202

“Grooming” R9-28-301

"GSA" R9-22-101

"Guardian" A.R.S. § 14-5311

“Hand use” R9-28-301

"HCBS" or "Home and community based services" A.R.S. §§ 36-2931 ~~and 36-2939~~

"Health care practitioner" R9-22-1201

“History” R9-28-301

"Home" R9-28-101 ~~and R9-28-901~~

"Home health services" ~~R9-22-102~~ R9-22-201

“Hospice” A.R.S. § 36-401

"Hospital" R9-22-101

"ICF-MR" or "Intermediate care facility for the mentally retarded" 42 U.S.C. 1396d(d)

~~“Intergovernmental agreement” R9-28-1101~~

“IADL” R9-28-101

"IHS" ~~R9-28-101~~ R9-22-101

"IMD" or "Institution for mental diseases" 42 CFR 435.1010

“Immediate risk of institutionalization” R9-28-301

"Institutionalized" ~~R9-28-101~~ R9-28-401

“Institutionalized spouse” R9-28-101

"Interested Party" R9-28-106

“Intergovernmental agreement” or “IGA” R9-28-1101

“Intervention” R9-28-301

"JCAHO" R9-28-101

"License" or "licensure" R9-22-101

“Limited or occasional” R9-28-301

“Medical assessment” R9-28-301

“Medical or nursing services and treatments” or “services and treatments” R9-28-301

"Medical record" R9-22-101

"Medical services" A.R.S. § 36-401

"Medical supplies" ~~R9-22-102~~ R9-22-201

"Medically eligible" ~~R9-28-104~~ R9-28-401

"Medically necessary" R9-22-101

"Member" A.R.S. § 36-2931 and R9-28-901

"Mental disorder" A.R.S. § 36-501

"MMMNA" ~~R9-28-104~~ R9-28-401

"Mobility" R9-28-301

"Noncontracting provider" A.R.S. § 36-2931

"Nursing facility" or "NF" 42 U.S.C. 1396r(a)

"Occupational therapy" ~~R9-22-102~~ R9-22-201

"Orientation" R9-28-301

"Partial care" R9-22-1201

"PAS" R9-28-103

"Personal hygiene" R9-28-301

"Pharmaceutical service" ~~R9-22-102~~ R9-22-201

"Physical interruption" R9-28-301

"Physical participation" R9-28-301

"Physical therapy" ~~R9-22-102~~ R9-22-201

"Physically disabled" R9-28-301

"Physically lift" R9-28-301

"Physician" ~~R9-22-102~~ R9-22-101

"Physician consultant" R9-28-301

"Place" R9-28-901

"Post-stabilization care services" 42 CFR 438.114

"Practitioner" ~~R9-22-102~~ R9-22-201

"Primary care provider" or "(PCP)" ~~R9-22-102~~ R9-22-101

"Primary care provider services" ~~R9-22-102~~ R9-22-201

"Prior authorization" ~~R9-22-102~~ R9-22-101

"Prior period coverage" or "PPC" R9-22-101

"Program contractor" A.R.S. § 36-2931

"Provider" A.R.S. § 36-2931

"Psychiatrist" R9-22-1201

"Psychologist" R9-22-1201

"Psychosocial rehabilitation services" ~~R9-22-102~~ R9-22-201

"Qualified behavioral health service provider" R9-28-1101

"Quality management" R9-22-501

"Radiology" ~~R9-22-102~~ R9-22-101

"Reassessment" R9-28-103

"Recover" R9-28-901

"Redetermination" ~~R9-28-104~~ R9-28-401

"Referral" R9-22-101

"Regional behavioral health authority" or "RBHA" A.R.S. § 36-3401

"Reinsurance" R9-22-701

"Remembering an instruction and demonstration" R9-28-301

"Representative" ~~R9-28-104~~ R9-28-401

"Resistiveness" R9-28-301

"Resistiveness or rebelliousness" R9-28-301

"Respiratory therapy" ~~R9-22-102~~ R9-22-201

"Respite care" R9-28-102

"RFP" R9-22-106

"Room and board" R9-28-102

"Rolling and sitting" R9-28-301

"Running or wandering away" R9-28-301

"Scope of services" R9-28-102

"Section 1115 Waiver" A.R.S. § 36-2901

“Self-injurious behavior” R9-28-301

“Sensory” R9-28-301

“Seriously mentally ill” or “SMI” A.R.S. §36-550

“Social worker” R9-28-301

“Special diet” R9-28-301

"Speech therapy" ~~R9-22-102~~ R9-22-201

"Spouse" ~~R9-28-104~~ R9-28-401

"SSA" 42 CFR 1000.10

"SSI" 42 CFR 435.4

"Subcontract" R9-22-101

“TEFRA lien” R9-28-901

"Therapeutic Leave" R9-28-501

“Toileting” R9-28-301

“Transferring” R9-28-301

“TRBHA” ~~R9-28-104~~ R9-22-1201

“Tribal contractor” R9-28-1101

“Tribal facility A.R.S. §36-2981

"Utilization management" R9-22-501

"Ventilator dependent" R9-28-102

“Verbal or physical threatening” R9-28-301

“Vision” R9-28-301

“Wandering” R9-28-301

“Wheelchair mobility” R9-28-301

B. General definitions. In addition to definitions contained in A.R.S. §§ 36-551, 36-2901, 36-2931, and 9 A.A.C. 22, Article 1, the following words and phrases have the following meanings unless the context of the Chapter explicitly requires another meaning:

“ADL” or “Activities of Daily Living” mean activities a member must perform daily for the member’s regular day-to-day necessities, including but not limited to mobility, transferring, bathing, dressing, grooming, eating, and toileting.

"ALTCS" means the Arizona Long-term Care System as authorized by A.R.S. § 36-2932.

"Alternative HCBS setting" means a living arrangement approved by the Director and licensed or certified by a regulatory agency of the state, where a member may reside and receive HCBS, including:

For a person with a developmental disability specified in A.R.S. § 36-551:

Community residential setting defined in A.R.S. § 36-551;

Group home defined in A.R.S. § 36-551;

State-operated group home under A.R.S. § 36-591;

Group foster home under R6-5-5903;

Licensed residential facility for a person with traumatic brain injury under A.R.S. § 36-2939;

Behavioral health adult therapeutic home under 9 A.A.C 20, Articles 1 and 15;

Level 2 and Level 3 behavioral health residential agencies under 9 A.A.C. 20, Articles 1, 4, 5, and 6; and

Rural substance abuse transitional centers under 9 A.A.C. 20, Articles 1 and 14; and

For a person who is EPD under R9-28-301, and the facility, setting, or institution is registered with AHCCCS:

Adult foster care defined in A.R.S. § 36-401 and as authorized in A.R.S. § 36-2939;

Assisted living home or assisted living center, units only, under A.R.S. § 36-401, and as authorized in A.R.S. § 36-2939;

Licensed residential facility for a person with a traumatic brain injury specified in A.R.S. § 36-2939;

Behavioral health adult therapeutic home under 9 A.A.C. 20, Articles 1 and 15;

Level 2 and Level 3 behavioral health residential agencies under 9 A.A.C. 20, Articles 1, 4, 5, and 6; and

Rural substance abuse transitional centers under 9 A.A.C. 20, Articles 1 and 14; and.

~~Alzheimer's treatment assistive living facility as specified in Laws 1999, Ch. 313, § 35 as amended by Laws 2001, Ch. 140, § 1 and Laws 2003, Ch. 76, § 1, and Laws 1999, Chapter 313, § 41, as amended by Laws 2001, Chapter 140, § 2.~~

"Case management plan" means a service plan developed by a case manager that involves the overall management of a member's care, and the continued monitoring and reassessment of the member's need for services.

"Case manager" means a person who is either a degreed social worker, a licensed registered nurse, or ~~a person with~~ has a minimum of two years of experience in providing case management services to a person who is EPD.

"CFR" means Code of Federal Regulations, unless otherwise specified in this Chapter.

"Covered services" means the health and medical services described in Articles 2 and 11 of this Chapter as being eligible for reimbursement by AHCCCS.

"Home" means a residential dwelling that is owned, rented, leased, or occupied by a member, at no cost to the member, including a house, a mobile home, an apartment, or other similar shelter. A home is not a facility, a setting, or an institution, or a portion of any of these that is licensed or certified by a regulatory agency of the state as a:

Health care institution under A.R.S. § 36-401;

Residential care institution under A.R.S. § 36-401;

Community residential setting under A.R.S. § 36-551; or

Behavioral health facility under 9 A.A.C. 20, Articles 1, 4, 5, and 6.

"IADL" or "Instrumental Activities of Daily Living" mean activities related to independent living that a member must perform, including but not limited to:

Preparing meals.

Managing money.

Shopping for groceries or personal items.

Performing light or heavy housework, and

Use of the telephone.

"IHS" means the Indian Health Service.

"Institutionalized spouse" means the same as defined in 42 U.S.C. 1396r-5.

"JCAHO" means the Joint Commission on Accreditation of Healthcare Organizations.

~~"TRBHA" means the same as in A.A.C. R9 22 1201.~~

R9-28-104. Eligibility and Enrollment Related Definitions Repealed

~~Definitions. The following words and phrases, in addition to definitions contained in A.R.S. §§ 36 2901 and 36 2931, and 9 A.A.C. 22, Article 1, have the following meanings unless the context of the Chapter explicitly requires another meaning:~~

~~"211" is defined in 42 CFR 435.211.~~

~~"217" is defined in 42 CFR 435.217.~~

~~"236" is defined in 42 CFR 435.236.~~

~~"Algorithm" means a mathematical formula used by the Administration to assign a member to an EPD program contractor when the member does not make a choice and does not meet the assignment decision process.~~

~~"ALTCS acute care services" means services, under 9 A.A.C. 22, Articles 2 and 12, that are provided to a person who meets ALTCS eligibility requirements in 9 A.A.C. 28, Article 4 but who lives in an acute care living arrangement described in R9 28 406 or who is not eligible for long term care benefits, described in R9 28 409, due to a transfer under R9 28 409 without receiving fair consideration.~~

~~"Community spouse" means the husband or wife of an institutionalized person who has entered into a contract of marriage, recognized as valid by Arizona, and who does not live in a medical institution.~~

~~"CSRSD" means Community Spouse Resource Deduction, the amount of a married couple's resources that are excluded in the eligibility determination to prevent impoverishment of the community spouse, determined under R9 28 410.~~

~~"Fair consideration" means income, real or personal property, services, or support and maintenance equal to the fair market value of the income or resources that were transferred.~~

~~"Institutionalized" means residing in a medical institution or receiving or expecting to receive HCBS that prevent the person from being placed in a medical institution determined by the PAS under R9-28-103.~~

~~"Medically eligible" means meeting the ALTCS medical eligibility criteria under 9 A.A.C. 28, Article 3.~~

~~"MMMNA" means Minimum Monthly Maintenance Needs Allowance.~~

~~"Redetermination" means a periodic review of all eligibility factors for a recipient.~~

~~"Representative" means a person other than a spouse or a parent of a dependent child, who applies for ALTCS on behalf of another person.~~

~~"Spouse" means a person legally married under Arizona law, a person eligible for Social Security benefits as the spouse of another person, or a person living with another person of the opposite sex and the couple represents themselves in the community as husband and wife.~~

ARTICLE 4. ELIGIBILITY AND ENROLLMENT

R9-28-401. General Eligibility and Enrollment-Related Definitions

A. Application for ALTCS coverage.

1. The Administration shall provide a person the opportunity to apply for ALTCS without delay.
2. A person may be accompanied, assisted, or represented by another in the application process.
3. To apply for ALTCS, a person shall submit a written application to an ALTCS eligibility office.
 - a. The application shall contain the applicant's name and address.
 - b. A person listed in A.A.C. R9-22-1405(B) shall submit the application.
 - c. Before the application is approved a person listed in A.A.C. R9-22-1405(E) shall sign the application.
 - d. A witness shall also sign the application if an applicant signs the application with a mark.
 - e. The date of application is the date the application is received at any ALTCS eligibility office.
4. Except as provided in R9-22-1501(C)(5), the Administration shall determine eligibility within 45 days from the date of application.
5. An applicant or representative who files an ALTCS application may withdraw the application for ALTCS coverage either orally or in writing to the ALTCS eligibility office where the application was filed. The Administration shall provide the applicant with a denial notice under subsection (G).

- ~~6. If an applicant dies while an application is pending, the Administration shall complete an eligibility determination for the deceased applicant.~~
- ~~7. The Administration shall complete an eligibility determination on an application filed on behalf of a deceased applicant, if the application is filed in the month of the person's death.~~
- B.** ~~Conditions of ALTCS eligibility. Except for persons identified in subsection (C), the Administration shall approve a person for ALTCS if all conditions of eligibility for one of the ALTCS coverage groups listed in R9-28-402(B) are met. The conditions of eligibility are:~~
 - ~~1. Categorical requirements under R9-28-402;~~
 - ~~2. Citizenship and alien status under R9-28-404;~~
 - ~~3. SSN under R9-28-405;~~
 - ~~4. Living arrangements under R9-28-406;~~
 - ~~5. Resources under R9-28-407;~~
 - ~~6. Income under R9-28-408;~~
 - ~~7. Transfers under R9-28-409;~~
 - ~~8. A legally authorized person shall assign rights to the Administration for medical support and for payment of medical care from any first and third parties and shall cooperate by:~~
 - ~~a. Obtaining medical support and payments and establishing paternity for a child born out of wedlock, except for pregnant women under A.A.C. R9-22-1421, unless the person establishes good cause under 42 CFR 433.147 for not cooperating; and~~
 - ~~b. Identifying and providing information to assist the Administration in pursuing first and third parties who may be liable to pay for care and services unless the person establishes good cause for not cooperating;~~
 - ~~9. A person shall take all necessary steps to obtain annuity, pension, retirement, and disability benefits for which a person may be entitled unless the person establishes good cause for not doing so;~~
 - ~~10. State residency under R9-28-403;~~
 - ~~11. Medical eligibility specified in Article 3 of this Chapter; and~~
 - ~~12. Providing information and verification specified in Section (D).~~

- C.** ~~Persons eligible for Title IV E or Title XVI. To be determined eligible for ALTCS, a person eligible for benefits under Title IV E or Title XVI of the Social Security Act shall provide information to allow the Administration to determine:~~
- ~~1. Medical eligibility specified in Article 3 of this Chapter;~~
 - ~~2. Post-eligibility treatment of income specified in R9-28-408;~~
 - ~~3. Trusts in accordance with federal and state law; and~~
 - ~~4. Transfer of property specified in R9-28-409.~~
- D.** ~~Verification. If requested by the Administration, a person shall provide information and documentation to verify the following criteria or shall authorize the Administration to verify the following criteria:~~
- ~~1. Categorical requirements under R9-28-402,~~
 - ~~2. SSN under R9-28-405,~~
 - ~~3. Living arrangements under R9-28-406,~~
 - ~~4. Resources under R9-28-407,~~
 - ~~5. Transfers of assets under R9-28-409,~~
 - ~~6. Income under R9-28-408,~~
 - ~~7. Citizenship and alien status under R9-28-404,~~
 - ~~8. First and third party liability under subsection (B)(8),~~
 - ~~9. Application for potential benefits under subsection (B)(9),~~
 - ~~10. State residency under R9-28-403,~~
 - ~~11. Medical conditions under Article 3 of this Chapter, and~~
 - ~~12. Other individual circumstances necessary to determine a person's eligibility and post-eligibility treatment of income (share of cost).~~
- E.** ~~Documentation of the eligibility decision. The ALTCS eligibility interviewer shall include facts in a person's case record to support the decision on the person's application.~~
- F.** ~~Eligibility effective date. Eligibility is effective the first day of the month that all eligibility requirements are met but no earlier than the month of application.~~

~~G. Notice. The Administration shall send a person a written notice of the decision regarding the person's application. The notice shall include a statement of the action and an explanation of the person's hearing rights specified in Article 8 of this Chapter and:~~

- ~~1. If the applicant's eligibility is approved, the notice shall contain:~~
 - ~~a. The effective date of eligibility; and~~
 - ~~b. Post-eligibility treatment of income (share of cost) information, which is the amount the person shall pay toward the cost of care.~~
- ~~2. If the applicant's eligibility is denied, the notice shall contain:~~
 - ~~a. The effective date of the denial;~~
 - ~~b. A statement detailing the reason for the person's denial, including specific financial calculations and the financial eligibility standard if applicable; and~~
 - ~~c. The legal authority supporting the decision.~~

~~H. Confidentiality. The Administration shall maintain the confidentiality of a person's record and shall not disclose the person's financial, medical, or other privacy interests except under A.A.C. R9-22-512.~~

Definitions. For purposes of this Article, the following words and phrases, in addition to definitions contained in A.R.S. §§ 36-2901 and 36-2931, and 9 A.A.C. 22, Article 1, have the following meanings unless the context of the Chapter explicitly requires another meaning:

"ALTCS acute care services" means services under 9 A.A.C. 22, Articles 2 and 12, that are provided to a person who meets ALTCS eligibility requirements in 9 A.A.C. 28, Article 4 and who:

1. Lives in an acute care living arrangement described in R9-28-406; or
2. Is not eligible for long-term care benefits, described in R9-28-409, due to a transfer under R9-28-409 without receiving fair consideration, or
3. Has refused institutionalized or HCBS services.

"Community spouse" means the husband or wife of an institutionalized person who has entered into a contract of marriage, recognized as valid by the State of Arizona, and who does not live in a medical institution.

"CSRD" means Community Spouse Resource Deduction, the amount of a married couple's resources that is excluded in the eligibility determination to prevent impoverishment of the community spouse as determined under R9-28-410.

"Fair consideration" means income, real or personal property, services, or support and maintenance equal to or exceeding the fair market value of the income or resources that were transferred.

"First continuous period of institutionalization" means the first period beginning on or after September 30, 1989 that the applicant was institutionalized for 30 consecutive days or more. To be considered institutionalized, the applicant must:

1. Have resided in a medical institution;
2. Have received paid formal Home and Community Based Services (HCBS);
3. Have received a combination of medical institutionalization and HCBS, or
4. Intend to receive HCBS and either:
 - a. Requests a Resource Assessment and is determined in need of institutional services by a Resource Assessment Medical Evaluation; or
 - b. Applies for ALTCS and is determined medically eligible by the Pre-Admission Screening (PAS).

"Institutionalized" means residing in a medical institution or receiving or expecting to receive HCBS that prevent the person from being placed in a medical institution as determined by the PAS.

"Medically eligible" means meeting the ALTCS medical eligibility criteria under Article 3 of this Chapter.

"MMMNA" means Minimum Monthly Maintenance Needs Allowance.

"Redetermination" means a periodic review of all eligibility factors for a recipient.

"Representative" means a person other than a spouse or a parent of a dependent child, who applies for ALTCS on behalf of another person.

"Spouse" means a person legally married under Arizona law, a person eligible for Social Security benefits as the spouse of another person, or a person living with another person of the opposite sex and the couple represents themselves in the community as husband and wife.

R9-28-401.01. General

A. Application for ALTCS coverage.

1. The Administration shall provide a person the opportunity to apply for ALTCS without delay.
2. A person may be accompanied, assisted, or represented by another in the application process.
3. To apply for ALTCS, a person shall submit an application to an ALTCS eligibility office.
 - a. The application shall contain the applicant's name and address.
 - b. Before the application is approved, a person listed in A.A.C. R9-22-1406(D) shall sign the application.
 - c. A witness shall also sign the application if an applicant signs the application with a mark.
 - d. The date of application is the date the application is received by the Administration or Department as described in R9-22-1406(C).
4. Except as provided in R9-22-1501(D)(5), the Administration shall determine eligibility within 45 days from the date of application.
5. An applicant or representative who files an ALTCS application may withdraw the application for ALTCS coverage either orally or in writing to the ALTCS eligibility office where the application was filed. The Administration shall provide the applicant with a denial notice under subsection (G).
6. If an applicant dies while an application is pending, the Administration shall complete an eligibility determination for the deceased applicant.
7. If a person dies before an application is filed, the Administration shall complete an eligibility determination on an application filed on behalf of the deceased applicant, if the application is filed in the month of the person's death.

B. Conditions of ALTCS eligibility. Except for persons identified in subsection (C), the Administration shall approve a person for ALTCS if all conditions of eligibility for one of the ALTCS coverage groups listed in R9-28-402(B) are met. The conditions of eligibility are:

1. Categorical requirements under R9-28-402;
2. Citizenship and alien status under R9-28-404;
3. SSN under R9-28-405;
4. Living arrangements under R9-28-406;
5. Resources under R9-28-407;

6. Income under R9-28-408;
 7. Transfers under R9-28-409;
 8. A legally authorized person shall assign rights to the Administration for medical support and for payment of medical care from any first- and third-parties and shall cooperate by:
 - a. Obtaining medical support and payments and establishing paternity for a child born out of wedlock, except for pregnant women under A.A.C. R9-22-1421, unless the person establishes good cause under 42 CFR 433.147 for not cooperating; and
 - b. Identifying and providing information to assist the Administration in pursuing first-and third-parties who may be liable to pay for care and services unless the person establishes good cause for not cooperating;
 9. A person shall take all necessary steps to obtain annuity, pension, retirement, and disability benefits for which a person may be entitled unless the person establishes good cause for not doing so;
 10. State residency under R9-28-403;
 11. Medical eligibility as specified in Article 3 of this Chapter; and
 12. Providing information and verification as specified in Section (D).
- C.** Persons eligible for Title IV-E or Title XVI. To be determined eligible for ALTCS, a person eligible for benefits under Title IV-E or Title XVI of the Social Security Act shall provide information to allow the Administration to determine:
1. Medical eligibility as specified in Article 3 of this Chapter,
 2. Post-eligibility treatment of income as specified in R9-28-408,
 3. The existence of trusts in accordance with federal and state law, and
 4. Transfer of property as specified in R9-28-409.
- D.** Verification. If requested by the Administration, a person shall provide information and documentation to verify the following criteria or shall authorize the Administration to verify the following criteria:
1. Conditions of eligibility as specified in subsection (B); and
 2. Other individual circumstances necessary to determine a person's eligibility and post-eligibility treatment of income (share-of-cost).

- E.** Documentation of the eligibility decision. The ALTCS eligibility interviewer shall include facts in a person's case record to support the decision on the person's application.
- F.** Eligibility effective date. Eligibility is effective the first day of the month that all eligibility requirements are met but no earlier than the month of application.
- G.** Notice. The Administration shall send a person a written notice of the decision regarding the person's application. The notice shall include a statement of the action and an explanation of the person's hearing rights as specified in 9 A.A.C. 34 and:
- 1.** If the applicant's eligibility is approved, the notice shall contain:
 - a.** The effective date of eligibility; and
 - b.** Post-eligibility treatment of income (share-of-cost) information, which is the amount the person shall pay toward the cost of care.
 - 2.** If the applicant's eligibility is denied, the notice shall contain:
 - a.** The effective date of the denial;
 - b.** A statement detailing the reason for the person's denial, including specific financial calculations and the financial eligibility standard if applicable; and
 - c.** The legal authority supporting the decision.
- H.** Confidentiality. The Administration shall maintain the confidentiality of a person's record and shall not disclose information regarding the person's financial, medical, or other privacy interests except under A.A.C. R9-22-512.

R9-28-407. Resource Criteria for Eligibility

- A.** The following Medicaid-eligible persons shall be deemed to meet the resource requirements for ALTCS eligibility unless ineligible due to federal and state laws regarding trusts.
1. A person receiving Supplemental Security Income (SSI);
 2. A person receiving Title IV-E Foster Care Maintenance payment; or
 3. A person receiving a Title IV-E Adoption Assistance.
- B.** Except as provided in subsection ~~(D)~~ (C), if a person's ALTCS eligibility is most closely related to SSI and is not included in subsection (A), the Administration shall determine eligibility using resource criteria in 42 U.S.C. 1382(a)(3), 42 U.S.C. 1382b, and 20 CFR 416 Subpart L.

~~C.~~ If a person's ALTCS eligibility is determined as a member of a family group including a dependent child, the Administration shall use the resource criteria in Section 2 of the AFDC State Plan as it existed on July 16, 1996 to determine eligibility.

D.C. The Administration permits the following exceptions to the resource criteria for a person identified in subsection (B):

1. Resources of ~~a responsible relative (the spouse or parent)~~ of a minor child are disregarded beginning the first day in the month the person is institutionalized.
2. The value of household goods and personal effects is excluded.
3. The value of oil, timber, and mineral rights is excluded.
4. The value of all of the following shall be disregarded:
 - a. Term insurance;
 - b. Burial insurance;
 - c. Assets that a person has irrevocably assigned to fund the expense of a burial;
 - d. The cash value of all life insurance if the face value does not exceed \$1,500 total per insured person and the policy has not been assigned to fund a pre-need burial plan or ~~declaratively designated~~ has a legally binding designation as a burial fund;
 - e. The value of any burial space held for the purpose of providing a place for the burial of the person, a spouse, or any other member of the immediate family;
 - f. ~~At the time of eligibility determination, \$1,500 of the equity value of an asset declaratively designated~~ that has a legally binding designation as a burial fund or a revocable burial arrangement if there is no irrevocable burial arrangement; ~~and~~
 - g. ~~If the person remains continuously eligible~~ During the time a person remains continuously eligible, all appreciation in the value of the assets in subsection ~~(D)(4)(f)~~ (C)(4)(f) will be disregarded; and
 - h. The ~~value~~ amount of a payment refunded by a nursing facility after ALTCS approval is only excluded for six months beginning with the month ~~of receipt~~ the refund was received. The Administration shall evaluate the refund in accordance with R9-28-409 if transferred without receiving something of equal value.

~~E.D.~~ For an institutionalized spouse, a resource disregard is allowed under ~~42 U.S.C. 1396r-5(h)(1), September 30, 1989~~ and 42 U.S.C. 1396r-5(c).

~~F.E.~~ Trusts are evaluated in accordance with federal and state laws to determine eligibility.

~~G.F.~~ A person is not eligible for long-term care services if countable resources exceed the following limits:

1. For a SSI-related person identified in subsection (B), the limit is \$2,000 or \$3,000 per couple under 20 CFR 416.1205.
- ~~2. For a person described in subsection (C), the limit is \$2,000; and~~
- ~~3.2.~~ For a person eligible under 42 U.S.C. 1396a(a)(10)(A)(i)(IV), 42 U.S.C. 1396a(a)(10)(A)(i)(VI), and 42 U.S.C. 1396a(a)(10)(A)(i)(VII), there is no resource limit.

~~H.G.~~ A person shall provide information and verification necessary to determine the countable value of resources.

R9-28-408. Income Criteria for Eligibility

~~A. The following Medicaid-eligible persons shall be deemed to meet the income requirements for eligibility unless ineligible due to a trust in accordance with federal and state law.~~

The following Medicaid-eligible persons shall be deemed to meet the resource requirements for ALTCS eligibility unless ineligible due to federal and state laws regarding trusts.

1. A person receiving Supplemental Security Income (SSI);
 2. A person receiving Title IV-E Foster Care Maintenance Payments; or
 3. A person receiving a Title IV-E Adoption Assistance.
- B.** If a person's ALTCS eligibility is most closely related to SSI and the person is not included in subsection (A), the Administration shall count the income described in 42 U.S.C. 1382a and 20 CFR 416 Subpart K to determine eligibility with the following exceptions:
1. Income types excluded by 42 U.S.C. 1382a(b) for determining net income are also excluded in determining gross income to determine eligibility;
 2. Income of ~~a responsible relative (the parent or spouse)~~ of a minor child is counted as part of income under 42 CFR 435.602, except that the income of ~~a responsible relative the parent or spouse~~ the parent or spouse is disregarded for the month the person is institutionalized;

3. In-kind support and maintenance, under 42 U.S.C. 1382a(a)(2)(A), are excluded for both net and gross income tests;
4. The income exceptions under A.A.C. ~~R9-22-1503(A)(2)~~ R9-22-1503(B) apply to the net income test; and
5. Income described in subsection ~~(E)~~ (D) is excluded.

~~C. If a person's ALTCS eligibility is determined as a member of a family with a dependent child, the Administration shall use the methodology in Section 2 of the AFDC State Plan as it existed on July 16, 1996 to determine eligibility.~~

D.C. For a person whose eligibility is determined under 42 U.S.C. 1396a(a)(10)(A)(i)(IV), 42 U.S.C. 1396a(a)(10)(A)(i)(VI), or 42 U.S.C. 1396a(a)(10)(A)(i)(VII), the methodology in A.A.C. ~~R9-22-1403~~ R9-22-1420 through R9-22-1426 is used to determine eligibility in accordance with 42 CFR 435.602. Income standards are then applied as described in A.A.C. R9-22-1428.

E.D. The following are income exceptions:

1. Disbursements from a trust are considered in accordance with federal and state law; and
2. For an institutionalized spouse, a person defined in 42 U.S.C. 1396r-5(h)(1), income is calculated ~~for the institutionalized spouse~~ in accordance with 42 U.S.C. 1396r-5(b).

F.E. As a condition of eligibility for ALTCS, countable income shall be less than or equal to the following limits:

1. For a person in either the 217 or 236 coverage group specified in R9-28-402(B), 300 percent of the FBR;
2. For a person or a couple in the SSI-related 210 coverage group specified in R9-28-402(B), 100 percent of the FBR;
3. For a person who is under 42 U.S.C. 1396a(a)(10)(A)(i)(IV), 42 U.S.C. 1396a(a)(10)(A)(i)(VI), and 42 U.S.C. 1396a(a)(10)(A)(i)(VII) and is:
 - a. A child who is at least age ~~6~~ six but less than age 19; 100 percent of the FPL, adjusted by household size;
 - b. A child age ~~4~~ one through ~~5~~ five, 133 percent of the FPL, adjusted by household size; ~~or~~
 - c. A child less than age ~~4~~ one ~~or a pregnant woman~~, 140 percent of the FPL, adjusted by household size;

or

- d. A pregnant woman, 150 percent of the FPL, adjusted by household size.

4. ~~For a person who is a member of a family with a dependent child, the standards specified in Section 2 of the AFDC State Plan as it existed on July 16, 1996 shall apply.~~

G.F. The Director shall determine the amount a person shall pay for the cost of ALTCS services and the post-eligibility treatment of income (share-of-cost) under A.R.S. § 36-2932(L) and 42 CFR 435.725 or 42 CFR 435.726. The Director shall consider the following in determining the share-of-cost:

1. Income types excluded by 42 U.S.C. 1382a(b) for determining net income are excluded in determining share-of-cost;
2. SSI benefits paid under 42 U.S.C. 1382(e)(1)(E) and (G) to a person who receives care in a hospital or nursing facility are not included in calculating the share-of-cost;
3. The share-of-cost of a person with a spouse is calculated as follows:
 - a. If an institutionalized person has a community spouse under 42 U.S.C. 1396r-5(h), share-of-cost is calculated under R9-28-410 and 42 U.S.C. 1396r-5(b) and (d); and
 - b. ~~If an institutionalized person has a spouse who does not live at home but is absent due to marital estrangement, or who resides in a medical institution or in an approved a setting specified in R9 28-504, only the institutionalized person's income is used for the share of cost. The spousal deduction under subsection (F)(5)(b) is not allowed; and~~ If an institutionalized person does not have a community spouse, share of cost is calculated solely on the income of the institutionalized person.
 - c. ~~For all other persons, the share of cost is calculated by dividing the combined income of the spouses in half;~~
4. Income assigned to a trust is considered in accordance with federal and state law.
5. The following expenses are deducted from the share-of-cost of an eligible person to calculate ~~their~~ the person's share-of-cost:
 - a. A personal-needs allowance equal to 15 percent of the FBR for a person residing in a medical institution for a full calendar month. A personal-needs allowance equal to 300 percent of the FBR for a person who receives or intends to receive HCBS or who resides in a medical institution for less than the full calendar month;
 - b. A spousal allowance, equal to the FBR minus the income of the spouse, if a spouse but no children remain at home;

- c. A family allowance equal to the standard specified in Section 2 of the AFDC State Plan as it existed on July 16, 1996 for the number of family members minus the income of the family members if a spouse and children remain at home;
 - d. Expenses for the medical and remedial care services listed in subsection (6) if ~~these~~ the expenses have not been paid or are not subject to payment by a third-party, ~~but~~ the person still has the obligation to pay the expense, and one of the following conditions is met:
 - i. The expense represents a ~~current payment (that is, a payment made and reported to the Administration during the application period or a payment reported to the Administration no later than the end of the month following the month in which the payment occurred)~~ and the expense has not previously been allowed a share-of-cost deduction; or
 - ii. The expense represents the unpaid balance of an allowed, noncovered medical or remedial expense, and the expense has not been previously ~~deducted from the share-of-cost~~ a share-of-cost deduction;
 - e. An amount determined by the Director for the maintenance of a single person's home for not longer than six months if a physician certifies that the person is likely to return home within that period; or
 - f. An amount for Medicare and other health insurance premiums, deductibles, or coinsurance not subject to third-party reimbursement; and
6. In the post-eligibility calculation of income:
- a. ~~the~~ The Administration recognizes that the following medical and remedial care services are not covered under the Title XIX State Plan, nor covered by a program contractor ~~to~~ for a person determined to need institutional services under this Article when the medical or remedial care services are medically necessary for ~~a~~ the person:
 - ~~a.i.~~ Nonemergency dental services for a person who is age 21 or older;
 - ~~b.ii.~~ Hearing aids and hearing aid batteries for a person who is age 21 or older;
 - ~~c.iii.~~ Nonemergency eye care and prescriptive lenses for a person who is age 21 or older;
 - ~~d.iv.~~ Chiropractic services, including treatment for subluxation of the spine, demonstrated by x-ray;
 - ~~e.v.~~ Orthognathic surgery for a person who is age 21 ~~years of age~~ or older; ~~and or~~

~~¶b.~~ On a case-by-case basis, other noncovered medically necessary services that a person petitions the Administration for and the Director approves.

H.G. A person shall provide information and verification of income under A.R.S. § 36-2934(G) and 20 CFR 416.203.

R9-28-410. Community Spouse

A. The methodology in this Section applies to an institutionalized person who ~~is legally married and~~ has a community spouse ~~who resides in the community.~~

B. If the institutionalized person's most current period of continuous institutionalization began on or after September 30, 1989, the Administration shall use the methodology for the treatment of resources under 42 U.S.C. 1396r-5(c), ~~September 30, 1989 incorporated by reference and on file with the Administration and the Secretary of State. This incorporation by reference contains no future editions or amendments.~~

1. The following resource criteria shall be used in addition to the criteria specified in R9-28-407 to be eligible:

- a. Resources owned by a couple at the beginning of the first continuous period of institutionalization from and after September 30, 1989, shall be computed from the first day of institutionalization. The total value of resources owned by the institutionalized spouse and the community spouse, and a spousal share equal to ~~1/2~~ one-half of the total value, are computed under 42 U.S.C. 1396r-5(c)(1); ~~September 30, 1989 incorporated by reference and on file with the Administration and the Secretary of State. This incorporation contains no future editions or amendments.~~
- b. The Community Spouse Resource Reduction (CSRDR) is calculated under 42 U.S.C. 1396r-5(f)(2); ~~September 30, 1989, incorporated by reference and on file with the Administration and the Secretary of State. This incorporation by reference contains no future editions or amendments.~~
- c. The CSRDR is subtracted from the total resources of the couple to determine the amount of the couple's resources considered available to the institutionalized spouse at the time of application under 42 U.S.C. 1396r-5(c)(2); ~~September 30, 1989, incorporated by reference and on file with the Administration and the Secretary of State. This incorporation by reference contains no future editions or amendments.~~
- i. Resources in excess of the CSRDR must be equal to or less than the standard for a person specified in R9-28-407.

- ii. The CSRD is allowed as a deduction for 12 consecutive months beginning with the first month in which the institutionalized spouse is eligible for ALTCS benefits. Beginning with the 13th month, the separate property of the institutionalized spouse must be within the resource standard for a person specified in R9-28-407.
 - iii. If a person, who was previously eligible for ALTCS using the community spouse policy, as an institutionalized person with a community spouse reapplies for ALTCS after a break in institutionalization of more than 30 days, the CSRD will be allowed as a deduction from resources for ~~another~~ a 12-month period in addition to the period in subsection (c)(ii).
 2. Resources are excluded as specified in R9-28-407, except that one vehicle is totally excluded regardless of its value, and any additional vehicles are included using equity value.
 3. The Director may grant eligibility if the Administration determines that a denial of eligibility would create an undue hardship for the institutionalized spouse.
- C. ~~The community spouse policy~~ This Section applies to the income eligibility and post-eligibility treatment of income beginning September 30, 1989, regardless of when the first period of institutionalization began.
1. Income payments are attributed to the institutionalized ~~spouse~~ person and the community spouse under 42 U.S.C. 1396r-5(b)(2), ~~October 1, 1993 incorporated by reference and on file with the Administration and the Secretary of State. This incorporation by reference contains no future editions or amendments.~~
 2. Income is excluded as specified in R9-28-408.
 3. The institutionalized spouse's income eligibility is determined ~~under community property rules in which the income of the~~ by combining the income of the institutionalized person and the community spouse is combined and divided dividing by 2 two. ~~Income~~ If the institutionalized person is not eligible using this method, the income eligibility shall be based on the income received in the person's name ~~if the person is not eligible using community property rules.~~
 4. The ~~items~~ following allowances described in 42 U.S.C. 1396r-5(d)(1) and (2) are allowed as deductions from the institutionalized spouse's income in determining share-of-cost ~~and 42 U.S.C. 1396r-5(d)(1) and (2), September 30, 1989, are incorporated by reference and on file with the Administration and the Secretary of State and contain no future editions or amendments:~~
 - a. A personal-needs allowance specified in R9-28-408(f)(5)(a);

- b. A community spouse monthly income allowance, but only to the extent that the institutionalized spouse's income is made available to or for the benefit of the community spouse;
- c. A family allowance for each family member equal to ~~4/3~~ one-third of the amount remaining after deducting the countable income of the family member from a minimum monthly-needs allowance (MMMNA);
- d. An amount for medical or remedial services as specified in R9-28-408; and-
- e. An amount for Medicare and other health insurance premiums, deductibles, or coinsurance not subject to third-party reimbursement.

D. Transfers.

- 1. The institutionalized spouse may transfer to any of the following an amount of resources equal to the CSRD without affecting eligibility under 42 U.S.C. 1396r-5(f), ~~September 30, 1989, incorporated by reference and on file with the Administration and the Secretary of State. This incorporation by reference contains no future editions or amendments.~~ The institutionalized spouse may transfer resources to:
 - a. The community spouse; or
 - b. Someone other than the community spouse if the resources are for the sole benefit of the community spouse.
- 2. The institutionalized spouse is allowed a period of 12 consecutive months, beginning with the first month of eligibility, to transfer resources in excess of the resource standard in R9-28-407(E)(2) to the persons listed in subsection (D)(1).
- 3. All other transfers by the institutionalized person or transfers by the community spouse are treated under the provisions in R9-28-409.

E. Specific hearing rights as described under 9 A.A.C. 34 apply to a person whose eligibility is determined under this Section.

- 1. The institutionalized spouse or the community spouse is entitled to a fair hearing if dissatisfied with the determination of any of the following:
 - a. The community spouse monthly income allowance;₂
 - b. The amount of monthly income allocated to the community spouse;₂
 - c. The computation of the spousal share of resources;₂

- d. The attribution of resources; or
 - e. The CSRD.
2. The hearing officer may increase the amount of the MMMNA if either the community spouse or institutionalized spouse establishes that the community spouse needs income above the established MMMNA due to exceptional circumstances.
 3. The hearing officer may increase the amount of the CSRD to allow the community spouse to retain enough resources to generate income to meet the MMMNA. The hearing officer may allow the community spouse ~~may be allowed~~ to retain an amount of resources necessary to purchase a single premium life annuity that would furnish monthly income sufficient to bring the community spouse's total monthly income up to the MMMNA.

R9-28-412. General Enrollment

- A. Program contractors. The Administration shall enroll each ALTCS member with ~~one of the following ALTCS program contractors or the FFS program as specified in A.R.S. § 36-2933:~~
 1. An elderly and physically disabled (EPD) program contractor,
 2. The developmentally disabled (DD) program contractor,
 3. A tribal program contractor, or
 4. The AHCCCS fee-for-service program.
- B.** Enrollment choice. An ALTCS member may choose a program contractor:
 1. At the time of application, or
 2. If the ALTCS member establishes a home outside of the GSA.
- B.C.** Annual enrollment. If an ALTCS member is elderly or physically disabled and lives in a GSA served by more than one program contractor, a member may change to an available program ~~contractors~~ contractor during the annual enrollment choice period ~~or as permitted as specified in R9-28-507.~~
- D.** A program contractor is responsible for the enrolled ALTCS member as described in R9-28-712, County-of-Fiscal Responsibility.

R9-28-415. Enrollment with a Tribal Program Contractor

- A. On-reservation. ~~The~~ Notwithstanding R9-28-412, the Administration shall enroll ~~an Indian~~ a Native American ALTCS member who is elderly or physically disabled with the ALTCS tribal program contractor as specified in A.R.S. § 36-2932 if ~~a~~ the person:
1. Lives on-reservation of a tribe participating as an ALTCS tribal program contractor, or
 2. Lived on-reservation of a tribe participating as an ALTCS tribal program contractor immediately prior to placement in an off-reservation NF or alternative HCBS setting.
- B. Off-reservation. The Administration shall enroll ~~an Indian~~ a Native American ALTCS member who is elderly or physically disabled with an EPD program contractor under R9-28-413, if ~~a~~ the member lives off-reservation, and ~~has no~~ does not have on-reservation status as specified in subsection (A)(2).

R9-28 418. Disenrollment

The Administration shall disenroll an ALTCS member on the last day of the month following receipt of appropriate notification under R9-28-411 except ~~under the following situations:~~

1. The Administration shall disenroll an ALTCS member who dies. A member's last day of enrollment shall be the date of death.
2. The Administration may disenroll a member immediately if requested.
3. ~~The Administration shall disenroll a member effective the date of the hearing decision if~~ If ALTCS benefits have been continued pending an eligibility appeal decision and the discontinuance is upheld, as specified in ~~9 A.A.C. 28, Article 8~~ 9 A.A.C. 34, the Administration shall disenroll a member effective on the date of the hearing decision.